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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,573	04/10/2001	Ryuichiro Hisamatsu	450100-03152	7755
20999	7590	03/30/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER

3621

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,573

Applicant(s)

HISAMATSU ET AL.

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to Applicant, Response, filed on 1/15/2004.
2. Claims 1-22 are pending.
3. The rejection to claims 1-22 under 35 U.S.C. 103 (a) as being unpatentable over Pargee, Jr in view of Stern as set forth in the Office action mailed on 10/15/2003 is maintained. See below.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pargee, Jr. (U.S. Pat. No. 4,422,093) in view of Stern (U.S. Pat. No. 6,591,247).

As per claims 1, 3-6, 8, and 10-22, Pargee substantially discloses a virtual service that employs the full facilities of a satellite television communication channel, comprising the steps of:

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obtaining information about earnings and expenses based on expenses incurred by content providers (content providers or satellite television broadcasting, cable television) supplying users with recording devices compatible with contents offered by the providers (see., abstract, col 3, lines 15-30, col 6, lines 18-38). Pargee fails to explicitly disclose advertisements and fees included in the contents. However, Stern discloses an advertising and payment method/system to disseminate information concerning multiple products. The advertisements information is associated with various products or contents (see., abstract, col 1, lines 37-67, col 3, lines 12-32, col 4, lines 46-67, it is obvious to recognize that satellite or cable broadcastings provide earnings for service provide to consumers). Therefore, it would have bee obvious to a person of ordinary skill in the art at the time the invention was made to modify the television burst service of Pargee by including the limitations detailed above as taught by Stern because this would advertise consumers in the television industry while ensuring that consumers is ready to perceive the message content of the advertisement.

As per claims 2, and 9, Pargee discloses the claimed method wherein said services constitute electronic commerce practiced by virtual shops (see., abstract, specifically wherein it is stated that a virtual service that employs the full facilities of a television communication channel on an intermittent basis, col 3, lines 3, lines 19-67).

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As per claim 7, Pargee discloses the claim method wherein said recording devices each include a hard disc drive (fig 4, col 7, lines 17-50).

RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 1/15/2004 have been fully considered but they are not persuasive.

REMARKS

7. In response to Applicant's arguments, Applicant argues that the prior art of record Pargee 093" and Stern 247" singularly or in combination fail to anticipate or render obvious the recited feature:

a. "a managerial method and system, as instantly claimed, wherein, for example, information about earnings and expenses incurred by content providers are obtained based upon the providers, expenses for supplying users ...". However, the Examiner respectfully disagrees since Pargee discloses a managerial method/system for transmitting images via television broadcasting, cable television, satellite broadcast or beam radio wave relay see., col 3, lines 15-30.

B "advertisements and fees included in the contents". However, Stern discloses an advertising and payment method/system to disseminate information concerning multiple products. The advertisements information is associated with various products or contents (see., abstract, col 1, lines 37-67, col 3, lines 12-32, col 4, lines 46-67, it is obvious to recognize that satellite or cable broadcastings provide earnings for service provide to consumers). Therefore, it would have bee

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obvious to a person of ordinary skill in the art at the time the invention was made to modify the television burst service of Pargée by including the limitations detailed above as taught by Stern because this would advertise consumers in the television industry while ensuring that consumers is ready to perceive the message content of the advertisement.

Conclusion

8. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The

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fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Pierre Eddy Elisca

Primary Patent Examiner

March 25, 2004